IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

Tr.P(Crl.).No. 40 of 2007()

ST.2708/2006 of J.M.F.C. - III, KOCHI

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PETITIONER:

ABRHAM GEORGE,
NARAYANAMATTOM, KURIANAD P.O.,
MONIPPALLY, KOTTAYAM DISTRICT.

BY ADV. SRI.V.BIJU JOSEPH

RESPONDENTS:

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1. K.R.RAMAKRISHNAN NAIR,
80/40, ALAPPATT RADASEKHARAM, PERUMTHURUTH P.O.,
KALLARA, KOTTAYAM DISTRICT.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS TRANSFER PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 04/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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T.P.(Cr.).No. 40 of 2007

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Dated this the 4th day of June, 2007

O R D E R

The petitioner is the complainant in a prosecution under Section 138 of the N.I. Act. According to him he had filed the complaint before the C.J.M. Court, Ernakulam thinking that such course is justified by the dictum in **Bhaskaran** v. **Balan** (1999 (3) KLT 440 (SC). In view of the later decision in **Ahammedkutty Haji** v. **State of Kerala** (2007 (1) KLT 68), the petitioner is now satisfied that the learned C.J.M. does not have jurisdiction to deal with the matter and the same has to be considered and decided by the learned Judicial First Class Magistrate, Pala. Accordingly this petition has been filed.

2. Notice was issued to the respondent. The notice is returned with the endorsement that it is unclaimed. I am satisfied that sufficient notice has been given.

3. The case filed before the C.J.M. Ernakulam has since been transferred to the J.F.C.M.- III, Kochi. I am satisfied that the prayer for transfer can be allowed.

4. This petition is allowed. S.T.No. 2708 of 2006 pending before the J.F.C.M.-III, Kochi is transferred to the Court of J.F.C.M., Pala. The learned Magistrate, Kochi, shall transmit the records to the J.F.C.M.-III, Pala. The petitioner shall appear before the said Court on 16.7.2007 to continue the proceedings.

(R. BASANT)
Judge

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